

AMENDED IN ASSEMBLY APRIL 18, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1865

Introduced by Assembly Member Alejo

February 22, 2012

An act to amend Section 1161.2 of the Code of Civil Procedure, relating to eviction.

LEGISLATIVE COUNSEL'S DIGEST

AB 1865, as amended, Alejo. Residential tenancies: eviction: notices.

Existing law governs unlawful detainer proceedings. Existing law requires the clerk to mail a specified notice upon the filing of an unlawful detainer action to each defendant named in the action and requires the notice to contain the name and telephone number of the county bar association as well as other legal services organizations that provide services to low-income persons.

This bill would require that the notice described above contain, in addition to the county bar association, the name and telephone number of any one or more nonprofit bar associations, *as specified*, that provide legal services to persons in the court where the action is filed and that are duly authorized by the State Bar as a lawyer referral service.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1161.2 of the Code of Civil Procedure is amended to read:

1161.2. (a) The clerk may allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:

(1) To a party to the action, including a party's attorney.

(2) To any person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.

(3) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(4) To any person by order of the court, which may be granted ex parte, on a showing of good cause.

(5) Except as provided in paragraph (6), to any other person 60 days after the complaint has been filed, unless a defendant prevails in the action within 60 days of the filing of the complaint, in which case the clerk may not allow access to any court records in the action, except as provided in paragraphs (1) to (4), inclusive.

(6) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff, after a trial. If judgment is not entered under the conditions described in this paragraph, the clerk shall not allow access to any court records in the action, except as provided in paragraphs (1) to (4), inclusive.

(b) For purposes of this section, "good cause" includes, but is not limited to, the gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code. It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subdivision (a).

(c) Upon the filing of any case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant,

1 and that access to the court file will be delayed for 60 days except
2 to a party, an attorney for one of the parties, or any other person
3 who (1) provides to the clerk the names of at least one plaintiff
4 and one defendant in the action and provides to the clerk the
5 address, including any applicable apartment, unit, or space number,
6 of the subject premises, or (2) provides to the clerk the name of
7 one of the parties in the action or the case number and can establish
8 through proper identification that he or she lives at the subject
9 premises. The notice shall also contain a statement that access to
10 the court index, register of actions, or other records is not permitted
11 until 60 days after the complaint is filed, except pursuant to an
12 order upon a showing of good cause therefor. The notice shall
13 contain on its face the name and telephone number of the county
14 bar association and, if available, one or more nonprofit bar
15 associations, *as determined by the court*, that provide legal services
16 to persons in the court where the action is filed and that are duly
17 authorized by the State Bar as a lawyer referral service. The notice
18 shall also contain on its face the name and telephone number of
19 an office or offices funded by the federal Legal Services
20 Corporation or qualified legal services projects that receive funds
21 distributed pursuant to Section 6216 of the Business and
22 Professions Code that provide legal services to low-income persons
23 in the county in which the action is filed. The notice shall state
24 that these numbers may be called for legal advice regarding the
25 case. The notice shall be issued between 24 and 48 hours of the
26 filing of the complaint, excluding weekends and holidays. One
27 copy of the notice shall be addressed to “all occupants” and mailed
28 separately to the subject premises. The notice shall not constitute
29 service of the summons and complaint.

30 (d) Notwithstanding any other provision of law, the court shall
31 charge an additional fee of fifteen dollars (\$15) for filing a first
32 appearance by the plaintiff. This fee shall be added to the uniform
33 filing fee for actions filed under this chapter.

34 (e) This section does not apply to a case that seeks to terminate
35 a mobilehome park tenancy if the statement of the character of the
36 proceeding in the caption of the complaint clearly indicates that
37 the complaint seeks termination of a mobilehome park tenancy.